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Before the
Federal Communications Commission
Washington, D.C. 20554

JAN 28 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Telecommunications Services)	
Inside Wiring)	CS Docket No. 95-184
)	
Customer Premises Equipment)	
)	
In the Matter of)	
)	
Implementation of the Cable)	
Television Consumer)	MM Docket No. 92-260
Protection and Competition)	
Act of 1992)	
)	
Cable Home Wiring)	

**AMERITECH REPLY TO COMMENTS ON,
AND OPPOSITIONS TO, PETITIONS FOR RECONSIDERATION**

Ameritech New Media, Inc. ("Ameritech") respectfully submits this reply to comments on, and oppositions to, its petition for partial reconsideration of the Commission's rules pertaining to cable inside wiring installed in multiple dwelling units ("MDUs") by multichannel video programming distributors ("MVPDs") adopted in the above-referenced proceeding.

In its petition, Ameritech recognized the Commission's efforts to fashion new rules governing the unit-by-unit disposition of cable inside wiring in MDUs in order to promote competition and consumer choice in the MDU video distribution market.

Ameritech proposed two, limited changes to the rules, which it believes would improve

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their utility and further promote these objectives. Specifically, Ameritech proposed that the Commission: (1) decrease to seven days the time period for incumbents to elect whether to remove, abandon, or sell inside wire serving end users who elect to switch to an alternate MVPD;¹ and (2) require incumbents to make the home run wiring of every end user potentially accessible to alternate providers at the same time the incumbent makes its election in order to ensure that the transition of service from an incumbent to an alternate provider is transparent to end users. Predictably, incumbent cable operators oppose Ameritech's petition because they seek to delay as long as possible the development of competition in the MDU context. Ameritech responds below to the comments on its petition.

I. The Commission Should Decrease the Incumbent Election Period in the Unit-by-Unit Context.

Alternate service providers, like DIRECTV (p. 16) and GTE (pp.13-14), join Ameritech in urging the Commission to shorten to seven days the time period within which incumbents must elect whether to sell, abandon, or remove home run wiring in the unit-by-unit context. These parties generally concur with Ameritech that reducing the election period would promote competition and consumer choice in the MDU market by expediting the provision of new services to MDU residents, while still affording

¹ The Commission's new rule (section 76.804(b)(1)) for the unit-by-unit disposition of home run wiring provides that an MDU owner that decides to permit in-building competition must provide the incumbent MVPD at least 60 days' written notice of its intent to invoke the unit-by-unit disposition procedure. Once notified, the incumbent MVPD has 30 days to make a single election, for each of its home run wires dedicated to a subscriber who switches to an alternate provider's service, whether it will remove, abandon, or sell such wires. If the incumbent elects to sell, the remaining thirty day period is allowed for negotiation of the price.

incumbents a reasonable opportunity to determine how to dispose of their home run wiring.

Not surprisingly, incumbent cable operators disagree. These parties vaguely suggest that the Commission should not reduce the election period on the grounds that shortening the election period would unnecessarily rush incumbent providers into making important elections affecting their legal rights,² and “[t]he process of notification, election and implementation *may* be complex and *may* require the reasonable time which the Commission has provided.”³

The incumbent operators do not, however, offer any explanation why a seven-day election period would “unnecessarily rush” incumbents, or why incumbents require 30 days to decide how they will dispose of inside wire in the unit-by-unit context. Ameritech submits that it is unlikely that incumbent operators will, as they suggest, be caught completely off-guard by a MDU owner’s decision to permit unit-by-unit competition, and therefore will require 30 days to evaluate their options. To the contrary, incumbents will likely decide well in advance of receiving such a notification how they will respond if a MDU owner elects to permit in-building competition. Moreover, as GTE observes, a shorter election period would not limit an operator’s

² Time Warner Opposition at 13-14 (contending that, if anything, the Commission should extend the election period by 15 days to make it consistent with the Commission’s 45-day deadline for incumbents to obtain an injunction to protect any valid legal rights they may have). Time Warner further claims that shorter deadlines would undermine the goal of promoting seamless service transitions because it is unlikely that a mutually acceptable sale or lease price would be negotiated during the initial 30-day period. *Id.* at 13 n.35. If, however, the Commission adopts a default price for home run wiring, as proposed by DIRECTV, prolonged negotiation periods would not be necessary.

³ NCTA Opposition at 10 (emphasis added).

ability to enforce any legal rights it may have under contract or state law, including by filing a state court action.

In response to Ameritech's contention that there is no basis for treating small MDUs differently from single family homes, NCTA argues that Ameritech's proposal should be rejected because it is based on so-called "exceptional possibilities."⁴ Small MDUs are, however, hardly exceptional as NCTA appears to suggest. Indeed, 10-12 percent of potential subscribers in Ameritech's franchise areas reside in MDUs with eight units or less. In large urban areas, such as Chicago, approximately 30 percent of potential subscribers reside in MDUs with fewer than eight units. In smaller urban areas, the number of small MDUs is likely to be much higher.

NCTA also attacks Ameritech's proposal on the ground that Ameritech has not submitted evidence that incumbents will use the 30-day election period to win back customers, as Ameritech argued in its petition.⁵ Ameritech points out that such evidence is not available because the Commission's rules are so new that experience under them is limited. Nevertheless, Ameritech's experience suggests that, given the opportunity, incumbent operators will go to great lengths to forestall competition, as demonstrated by their attempts to dissuade MDU owners from permitting in-building competition by threatening litigation.⁶

⁴ NCTA Opposition at 9 (claiming that MDUs "*may* include several hundred [units]") (emphasis added).

⁵ NCTA Opposition at 9 (citing Ameritech's contention that incumbents will use the 30-day election period under the existing rules to develop strategies to retain and win back MDU subscribers).

⁶ See e.g. Comments of Ameritech on Second Further Notice of Proposed Rulemaking, CS Docket No. 95-184 at 4 (filed December 23, 1997).

The Commission should, therefore, reject the foregoing vacuous arguments of incumbent cable operators, reduce the unit-by-unit election period,⁷ and thereby promote more vigorous competition and increased consumer choice in MDUs.

II. The Commission Should Require Incumbents to Make the Home Run Wiring of Every End User Accessible to Alternate Providers Simultaneously with Making Their Unit-by-Unit Election.

None of the commenters addressed Ameritech's suggestion that the Commission revise the new MDU inside wire procedures to require incumbents to make the home run wiring of every end user potentially accessible to alternative providers at the same time they announce their decision to sell or abandon their home run wire in order to ensure that service transitions are transparent to end users.⁸ Both DIRECTV and OpTel, however, agree with Ameritech that incumbents should be required to coordinate service transitions in order to prevent service disruptions and ensure that MDU owners and residents are not unnecessarily burdened by changing service providers.⁹ Ameritech submits that the change in the Commission's rules that it proposes is essential to ensure a seamless transition between service providers, and would minimize, if not eliminate, any

⁷ Ameritech has previously suggested that an election period of seven days would be appropriate, but submits that, regardless of what period is adopted, in no event should the combined unit-by-unit notice, election and negotiation periods exceed the 45-day period for obtaining an injunction to stay the operation of the Commission's MDU inside wire disposition rules. Permitting a longer period would unnecessarily delay unit-by-unit competition.

⁸ In its petition, Ameritech noted that incumbents could comply with such a condition by (for example) terminating the upstream end of each end user's home run wire in a new lockbox (or bridger box) to which both the incumbent and alternative providers would have equivalent access.

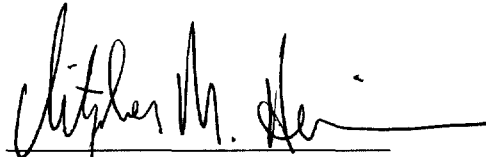
⁹ DIRECTV Opposition at 16-17, OpTel at 2.

disruption to MDU owners and residents from switching service providers.¹⁰ Moreover, this change would permit alternate service providers to initiate service to subscribers who live in MDUs as quickly as they do for subscribers in single-family homes.

III. Conclusion.

For the foregoing reasons, and consistent with the Commission's goals of promoting competition and consumer choice in the MDU market, the Commission should amend its new inside wire rules for MDUs to reduce the incumbent's unit-by-unit election period to seven days, and require the incumbent to make the home run wire of every end user potentially accessible to alternate providers at the same time the incumbent makes its election.

Respectfully submitted,



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¹⁰ For example, in Naperville, Illinois, the incumbent operator, Jones, and Ameritech have installed a joint lockbox in one MDU. As a result, for the past eight months, both operators have been able to switch a customer's service easily and with minimal disruption to the customer, demonstrating the utility and value of joint lockbox arrangements.

CERTIFICATE OF SERVICE

I, Toni R. Acton, do hereby certify that a copy of the foregoing Ameritech Reply to Comments On, and Oppositions to, Petitions for Reconsideration has been served on the parties listed on the attached service list, by first class mail, on this 28th day of January 1998.

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